UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,998	04/03/2001	Thomas P. Mulligan	5298-05300	3580

35617   7590   10/19/2006

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EXAMINER
VU, KIEU D

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

<table>
<tr>
<td rowspan="2">Office Action Summary</td>
<td>Application No.
09/826,998</td>
<td>Applicant(s)
MULLIGAN ET AL.</td>
</tr>
<tr>
<td>Examiner
Kieu D. Vu</td>
<td>Art Unit
2173</td>
</tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 July 2006</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   In view of the Appeal Brief filed on 07/20/06, PROSECUTION IS HEREBY

REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of

the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a

reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be

accompanied by a supplemental appeal brief, but no new amendments, affidavits

(37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR

1.193(b)(2).

2.   Claims 1-21 are pending.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or
> composition of matter, or any new and useful improvement thereof, may obtain a patent
> ·therefor, subject to the conditions and requirements of this title.

4.   Claims 8-11 and 21 are rejected under 35 U.S.C. 101 because the

computer-usable carrier medium" as claimed is directed to intangible

embodiments. As such, the claims are not limited to statutory subject matter and

are therefore non-statutory. See State Street, 149 F.3d at 1374-75, 47 USPQ2d

at 1602 (Fed. Cir. 1998) (MPEP 2106).

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6.   Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the on-screen pointer" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1-4, 8-9, 12, and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (USP 6438746) and Bates et al ("Bates", USP 6865713).

Regarding claim 1, Martin teaches a method for generating computer executable code, comprising creating a data set (1000b) and inserting the data set into an applications program to form the computer executable code (col 2, lines 14-24; col 12, lines 57-60). Martin differs from the claim in that Martin does not teach the data set is created by modifying a comments portion of a program by activating a user-selectable link embedded within the comments portion.

However, such feature is known in the art as taught by Bates. Bates teaches a

method for annotating a hypertext document with comments (col. 3, lines 16-32).

Bates further teaches that the comment (text) includes a link word that can be

modified by an on-screen pointer (col 8, lines 1-13) (Fig. 3-4) and further teaches

the data set is created by modifying a comments portion of a program by

activating a user-selectable link embedded within the comments portion (Fig. 6-

7). It would have been obvious to one of ordinary skill in the art, having the

teaching of Martin and Bates before him at the time the invention was made, to

modify the program generating system taught by Martin to include the teaching

that the data set is created by modifying a comments portion of a program taught

by Bates with the motivation being to generate code from the comment portions

when necessary.

Regarding claims 2 and 19, Martin and Bates teach the displaying a link

within a line of text preceded by a comments designator (Martin, symbol "//" in

Fig. 9; col 7, lines 34-39) (Bates, col 8, lines 1-13) (Fig. 3-4).

Regarding claims 3 and 18, Martin teaches the displaying a window

containing the comments portion and the data set (part 1000b in Fig. 9).

Regarding claim 4, Martin teaches an on-screen pointer and a pointer

device (col 4, lines 39-49).

Regarding claim 8, Martin teaches method comprising a first text preceded

by a comments designator (part 1000b in Fig. 9) and succeeded by link symbol

(link word) ("=", col 10, lines 9-16) (col 5, lines 51-60) and a second text

displayed on a display device for presenting a data set that changes dependent

on modification to the link symbol by modification of the data set (Fig. 9). Martin

differs from the claim in that Martin does not teach that the comments designator

may be succeeded by a link word is adapted for modification by an on-screen

pointer. However, such feature is known in the art as taught by Bates. Bates

teaches a method for annotating a hypertext document with comments (col. 3,

lines 16-32). Bates further teaches that the comment (text) includes a link word

that can be modified by an on-screen pointer (col 8, lines 1-13) (Fig. 3-4). It

would have been obvious to one of ordinary skill in the art, having the teaching of

Martin and Bates before him at the time the invention was made, to modify the

program generating system taught by Martin to include the teaching that link

word that can be modified by an on-screen pointer taught by Bates with the

motivation being to enable the system to quickly and efficiently modify the

comment portion.

Regarding claim 9, Martin and Bates teaches that the link word and the

data set reside within a single window for display upon the display device (Martin,

Fig. 9) (Bates, col 8, lines 1-13) (Fig. 3-4).

Regarding claim 12, Martin teaches the data set is linked to an

applications program to form computer executable code (col 5, lines 11-15).

Regarding claim 14, Martin teaches that the data set comprises several

grouping of fields that define timing signals (1010b and 1012b).

Regarding claim 15, Martin teaches a compiler 316 for generating a data

set containing one field of bits (col 10, lines 9-16), the data set comprises a

symbol "=" (1000b in Fig. 9) and hardware for generating programmable signals

(col 3, lines 24-36). Martin differs from the claim in that Martin does not teach the

data set is created by modifying a comments portion of a program. However,

such feature is known in the art as taught by Bates. Bates teaches a method for

annotating a hypertext document with comments (col. 3, lines 16-32). Bates

further teaches that the comment (text) includes a link word that can be modified

by an on-screen pointer (col 8, lines 1-13) (Fig. 3-4) and further teaches the data

set is created by modifying a comments portion of a program by activating a

user-selectable link embedded within the comments portion (Fig. 6-7). It would

have been obvious to one of ordinary skill in the art, having the teaching of Martin

and Bates before him at the time the invention was made, to modify the program

generating system taught by Martin to include the teaching that the data set is

created by modifying a comments portion of a program taught by Bates with the

motivation being to generate code from the comment portions when necessary.

Regarding claim 16, Martin and Bates teach that the link is accessible by a

user via a graphical user interface (Martin, col 5, lines 51-60) (Bates, col 8, lines

1-13) (Fig. 3-4).

Regarding claim 17, Martin teaches the data set is linked to an

applications program to form computer executable code (col 5, lines 11-15).

Regarding claim 20, Martin teaches that the comments designator notes

the corresponding line of text as non-executable words separate and distinct

from lines of program commands (col 7, lines 34-39).

Regarding claim 21, Bates teaches that the link word is activated by a

user of the computer program to modify the data set (col 8, lines 1-13) (Fig. 3-4).

9.   Claims 5 and 10-11 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Martin, Bates, and Shulman et al ("Shulman", USP 6026233).

Regarding claim 5, Martin does not teach the use of pull-down menu in computer programming. However, such feature is known in the art as taught by Shulman. Shulman teaches a method for presenting and selecting options to modify a programming language statement. Shulman discloses the generating an assisting window that contains program related information for use by a programmer (Fig. 5-6, col 4, lines 20-24). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Shulman before him at the time the invention was made, to modify the program generating system taught by Martin to include the pull-down assisting menu window taught by Shulman with the motivation being to enable the system to efficiently assist a computer programmer during the writing, evaluation, and maintenance of a computer program.

Regarding claims 10-11, Martin does not teach that the link word and the data set reside in two separate windows concurrently displayed on the display device. However, such feature is known in the art as taught by Shulman. Shulman teaches a method for presenting and selecting options to modify a programming language statement. Shulman discloses displaying concurrently two windows on the display device (Fig. 4). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Shulman before him at the time the invention was made, to modify the program generating system taught by Martin to include the concurrently display two windows taught by Shulman with the motivation being to enable the system to efficiently present the computer program.

10.   Claims 6-7 and 13 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Martin, Bates, and Propster et al ("Propster", USP 4541048).

Regarding claims 6-7, Martin does not teach the defining an electrical
waveform and setting waveform descriptor commands of a programmable
interface circuit. However, such feature is known in the art as taught by Propster.
Propster teaches a modular programmable signal processor which comprises the
defining an electrical waveform and setting waveform descriptor commands of a
programmable interface circuit (Fig. 10; col 2, lines 35-37). It would have been
obvious to one of ordinary skill in the art, having the teaching of Martin and
Propster before him at the time the invention was made, to modify the program
generating system taught by Martin to include the waveform taught by Propster
with the motivation being to enable the system to efficiently indicate the memory
access and data of the system.

Regarding claim 13, Martin does not teach the defining an electrical
waveform and setting waveform descriptor commands of a programmable
interface circuit. However, such feature is known in the art as taught by Propster.
Propster teaches a modular programmable signal processor which comprises the
defining an electrical waveform and setting waveform descriptor commands of a
programmable interface circuit (Fig. 10; col 2, lines 35-37). It would have been
obvious to one of ordinary skill in the art, having the teaching of Martin and
Propster before him at the time the invention was made, to modify the program
generating system taught by Martin to include the waveform taught by Propster
with the motivation being to enable the system to efficiently indicate the memory
access and data of the system.

11.   Applicant's arguments filed 07/20/06 have been considered but are moot in view of the new ground(s) of rejection.

12.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu.

The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached at 571-272-4048.
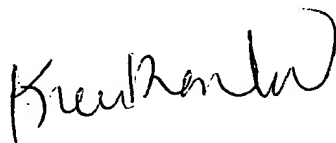
The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900).

Kieu D. Vu

Primary Examiner.